

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 20:010

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 20:010 was not requested and; therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 20:010:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Kathy Adams, Director of Public Policy	Children's Alliance
Cara Stewart, Health Law Fellow	Kentucky Equal Justice

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 20:010:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Lee Guice, Director	Department for Medicaid Services, Division of Policy and Operations
Marchetta Carmicle, Manager	Department for Medicaid Services, Division of Policy and Operations, Eligibility Policy Branch
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Consequences for not Reporting Changes in Eligibility Conditions

(a) Comment: Kathy Adams, Directory of Public Policy for Children's Alliance, stated the following:

"Page 5, line 5 to 10. Section 2 requires the recipient to report changes in their circumstances however there is no penalty mentioned for their failure to report. Recommend language be added to clarify the penalty if they fail to report or provide inaccurate information, or that a reference to the established penalties, if set forth in a separate regulation, be added."

(b) Response: The Department for Medicaid Services (DMS) prefers to not insert a fixed penalty into the administrative regulation for failing to report changes in circumstances.

(2) Subject: Medicaid Eligibility for Individuals Eligible for Medicare

(a) Comment: Cara Stewart, Health Law Fellow at Kentucky Equal Justice stated the following:

“907 KAR 20:010. Medicaid procedures for determining initial and continuing eligibility other than procedures related to a modified adjusted gross income eligibility standard or related to former foster care individuals.

Section 5. Applicability (d) (2)

Comment: The comment is the exact same as Section 12 immediately above for 907 KAR 20:005. We request you clarify that those persons ineligible for Medicare but aged 65 or older and otherwise eligible are included in this expansion would be eligible for Medicaid under these new regulations.

Suggested language:

(d) Any adult with income up to 133 percent of the federal poverty level who:
1. Does not have a dependent child under the age of nineteen (19) years; and
2. Is not otherwise eligible for Medicaid or Medicare benefits; or.”

(b) Response: The Affordable Care Act and the Centers for Medicare and Medicaid Services (CMS) do not grant Medicaid eligibility for individuals sixty-five (65) and over under the new eligibility categories – “MAGI” and the “Medicaid expansion” group. No federal funding is provided for individuals sixty-five (65) and over under the new eligibility categories. The eligibility rules for individuals sixty-five (65) and over remain unchanged by federal law and by CMS. The relevant codified language appears in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(c) Comment: Cara Stewart, Health Law Fellow at Kentucky Equal Justice stated the following:

“907 KAR 20:010 Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards.

Comment: Our comments here are the same as above, to include Kentuckians over sixty-five years old who are not eligible for Medicare or otherwise eligible for Medicaid.”

(d) Response: The Affordable Care Act and the Centers for Medicare and Medicaid Services (CMS) do not grant Medicaid eligibility for individuals sixty-five (65) and over under the new eligibility categories – “MAGI” and the “Medicaid expansion” group. No federal funding is provided for individuals sixty-five (65) and over under the new eligibility categories. The eligibility rules for individuals sixty-five (65) and over remain

unchanged by federal law and by CMS. The relevant codified language appears in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(3) Subject: Applicability Section

(a) and (b) Comment and Response: As DMS is revising “applicability” section of the other eligibility administrative regulations to replace existing detailed provisions with references to the relevant other administrative regulations, DMS is revising (via an “amended after comments” administrative regulation, this administrative regulation accordingly.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 20:010 and is amending the administrative regulation as follows:

Page 8

Section 5(1) and (1)(a)

Line 8

After “Applicability.”, delete “(1)”.

Line 9

After “individual”, delete the colon, the return, and “(a)”.

Line 10

After “determined”, insert a colon, a return and “(1)”.

Line 11

After “standard”, insert “pursuant to 907 KAR 20:100”.

After “; or”, insert a return and “(2) Pursuant to 907 KAR 20:075”.

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Section 5(1)(b) and (2)

Lines 12 through

Page 9

Line 3

Delete Section 5(1)(b) and Section 5(2) in their entirety.